

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

TRAVIS LEVY

PETITIONER

VS.

CIVIL ACTION NO. 3:05CV447LS

**WARDEN MARION MASON, SUPERINTENDENT,
LAWRENCE KELLY and ATTORNEY GENERAL
JIM HOOD**

RESPONDENTS

ORDER

This matter came before the court upon the Petitioner's Motion to Stay Habeas Corpus in Abeyance. The basis of the Motion is the Petitioner's contention that he has recently discovered evidence in this matter that he has presented to the Sunflower County Circuit Court. That court has reviewed Levy's submission and determined that he has stated a claim that should be investigated and answered by the State. Because Levy has actively pursued his claims in a timely fashion, and because there has been no objection by the Respondents, the court finds that Levy's habeas corpus action in this court should be stayed. *See Pliler v. Ford*, 542 U.S. 225, 235-40 (2004) (O'Connor, J., concurring; Stevens, Souter, Ginsburg and Breyer, JJ., dissenting). (While the United States Supreme Court has not specifically addressed the "stay and abeyance" procedure, several Justices have commented on its merit.) That stay will not be indefinite, and it is conditioned upon Levy's prompt notice to the court of the outcome of his Sunflower County proceedings.

IT IS, THEREFORE, ORDERED that the Petitioner's Motion to Stay Habeas Corpus in Abeyance is hereby **granted**. The Petitioner will notify the court on or before March 31, 2006, as to the status of his proceedings in Sunflower County. Failure to so notify the court will result in the lifting of the stay and the court's consideration only of his exhausted claims.

IT IS SO ORDERED, this the 24th day of February, 2006.

S/James C. Sumner
UNITED STATES MAGISTRATE JUDGE